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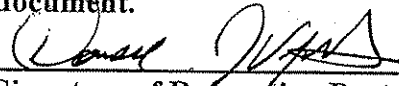
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**Please print legibly or type information.**

<b>Document Title(s)</b> Restrictive Covenant
<b>Grantor(s)</b> Manson Construction Company and Sate of Washington Department of Ecology _____ <b>Additional Names on Page</b> _____ <b>of Document</b>
<b>Grantee(s)</b> _____ <b>Additional Names on Page</b> _____ <b>of Document</b>
<b>Legal Description (Abbreviated: i.e., lot, block &amp; subdivision name or number OR section/township/range and quarter/quarter section)</b> Parts of Lots 2, 3 and 4, Pierce County Plat No. 79-483 and in the NE quarter of Section 21, Township 22 North, Range 2 East, W.M. <b>Complete Legal Description on Page</b> _____ <b>of Document</b>
<b>Auditor's Reference Number(s)</b>
<b>Assessor's Property Tax Parcel/Account Number(s)</b> 022221-5-006, 022221-5-007, 022221-5-008
<p>The Auditor/Recorder will rely on the information provided on this cover sheet. The Staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.</p> <p>I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.</p> <p> _____ <b>Signature of Requesting Party (Required for non-standard recordings only)</b></p>

# RESTRICTIVE COVENANT

## Manson Construction Co.

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Manson Construction Co. (hereafter "Manson") its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the property is described in the following document: January 12, 2004, Summary of Cleanup Actions, Camp Dress & McKee, Inc. This document is on file at Ecology's Southwest Regional Office.<sup>1</sup>

This Restrictive Covenant is required because the Remedial Action resulted in minimal residual concentrations of arsenic, lead, and polynuclear aromatic hydrocarbons (PAHs) in soil which exceed the Model Toxics Control Act Method Method A Residential Cleanup Level(s) for soil established under WAC 173-340-704. The soil with the residual contamination is capped and contained on site at the locations shown on the attached Site Plan and Table 1.

The undersigned, Manson, is the fee owner of real property (hereafter "Property") in the County of Pierce, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described as Tax Parcel Numbers 022221-5-006, 022221-5-007, and 022221-5-008 within part of Lots 2, 3, and 4, Pierce County Plat No. 79-483 and in the northeast quarter of Section 21, Township 22 North, Range 2 East, W.M. Manson makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited unless approved by Ecology. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited unless approved by Ecology.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial

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<sup>1</sup> The term 'document' means reports prepared regarding the remedial action as well as Ecology's closure letter.

Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the completed Remedial Action, a copy of the plan is attached hereto as exhibit 1.

Section 5. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

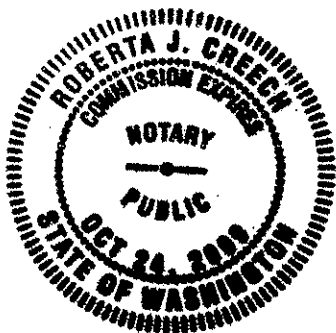
MANSON CONSTRUCTION CO.

By: R J Dolman

Its: CFO

Date: 2/6/06

SUBSCRIBED AND SWORN to before me this 6<sup>th</sup> day of February, 2006.



Roberta J. Creed

Roberta J. Creed

(Print Name)

Notary Public in and for the State of Washington,  
residing at Kirkland

My Commission Expires: 10-24-09



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## **OPERATION AND MAINTENANCE PLAN**

**NORWEGIAN SALMON INDUSTRIES SITE  
GIG HARBOR, WASHINGTON**

Submitted by:  
**Farallon Consulting, L.L.C.**  
320 3<sup>rd</sup> Avenue Northeast  
Issaquah, Washington 98027  
Farallon PN: 879-003

For:  
**Manson Construction Company**  
5209 East Marginal Way South  
Seattle, Washington 98124

October 4, 2005

**EXHIBIT 1**



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## 1.0 INTRODUCTION

This Draft Operation and Maintenance Plan (OMP) has been prepared by Farallon Consulting, L.L.C. on behalf of Manson Construction Company (Manson) for the Norwegian Salmon Industries Site located in Gig Harbor, Washington (herein referred to as the Site) in accordance with the Washington State Department of Ecology (Ecology) Model Toxics Control Act Cleanup Regulation (MTCA), Chapter 173-340 of the Washington Administrative Code (WAC 173-340), and in accordance with the requirements of Agreed Order No. DE TCPSR-3885 dated April 26, 2002 entered into by Manson and Ecology (Agreed Order). The OMP has been prepared in accordance with WAC 173-340-400 to provide technical guidance and satisfy regulatory requirements to ensure effective operation and maintenance of institutional controls implemented as part of the closure of the Site. The owner of the Site is the responsible party for implementation of the OMP.

### 1.1 PURPOSE

The purpose of the OMP is to provide operation and maintenance procedures to confirm that the physical measures of the institutional controls installed at the Site meet the requirements to protect human health and the environment, comply with MTCA cleanup standards, and comply with the terms and conditions of the Agreed Order. The operation and maintenance procedures in the OMP include:

- Conducting a baseline survey to evaluate institutional controls at the Site, including assessing the condition of the earthen cap placed at the Site, the condition of the swale with a check dam located at the toe of the hill slope, and the condition of the bulkhead;
- Annual inspection of the earthen cap placed over soil and inspection of the swale with a check dam located at the toe of the hill slope;
- Inspection of the bulkhead; and
- Performing maintenance on the earthen cap, swale with check dam, and/or bulkhead, if necessary.



## **2.0 INSTITUTIONAL CONTROLS**

Institutional controls, as defined in WAC 173-340-440(1) are measures undertaken to limit or prohibit activities that may interfere with the integrity of a cleanup action or result in exposure to hazardous substances at a site. Institutional controls were designed and implemented at the Site to protect human health and the environment, and include physical measures, property use restrictions, and maintenance requirements.

### **2.1 PHYSICAL MEASURES**

Physical measures for the cleanup action include a 2-foot thick earthen cap placed over upland areas of the Site. The drainage swale with a check dam is located along the western edge of the Site and bulkhead. The cap consists of 18 inches of silty sand overlain by 6 inches of topsoil and vegetative cover that is graded to promote runoff.

### **2.2 PROPERTY USE RESTRICTIONS**

A Restrictive Covenant with a deed restriction was recorded with the office of the Pierce County Auditor and was submitted to Ecology.

### **2.3 MAINTENANCE REQUIREMENTS**

Annual operation and maintenance of the earthen cap, drainage swale, and/or bulkhead will be conducted to assess the operation and integrity of the institutional controls. Maintenance requirements will be determined based on the results of monitoring of the physical measures described in Section 2.1.



### 3.0 OPERATION AND MAINTENANCE

This section provides a discussion of the operation and maintenance requirements to assess both normal and unusual conditions at the Site. The operation and maintenance requirements for the Site are presented below.

#### 3.1 INSPECTION

Inspection of the Site will be conducted annually. Each inspection will include:

- Photographing the earthen cap, drainage swale and check dam, and bulkhead;
- Inspecting the earthen cap for animal intrusion, structural integrity, subsidence, and erosion; and documenting the current condition;
- Inspecting the drainage swale and check dam for animal intrusion, structural integrity, blockage and performance; and documenting the current condition; and
- Inspecting the bulkhead for buckling or movement, and documenting the current condition.

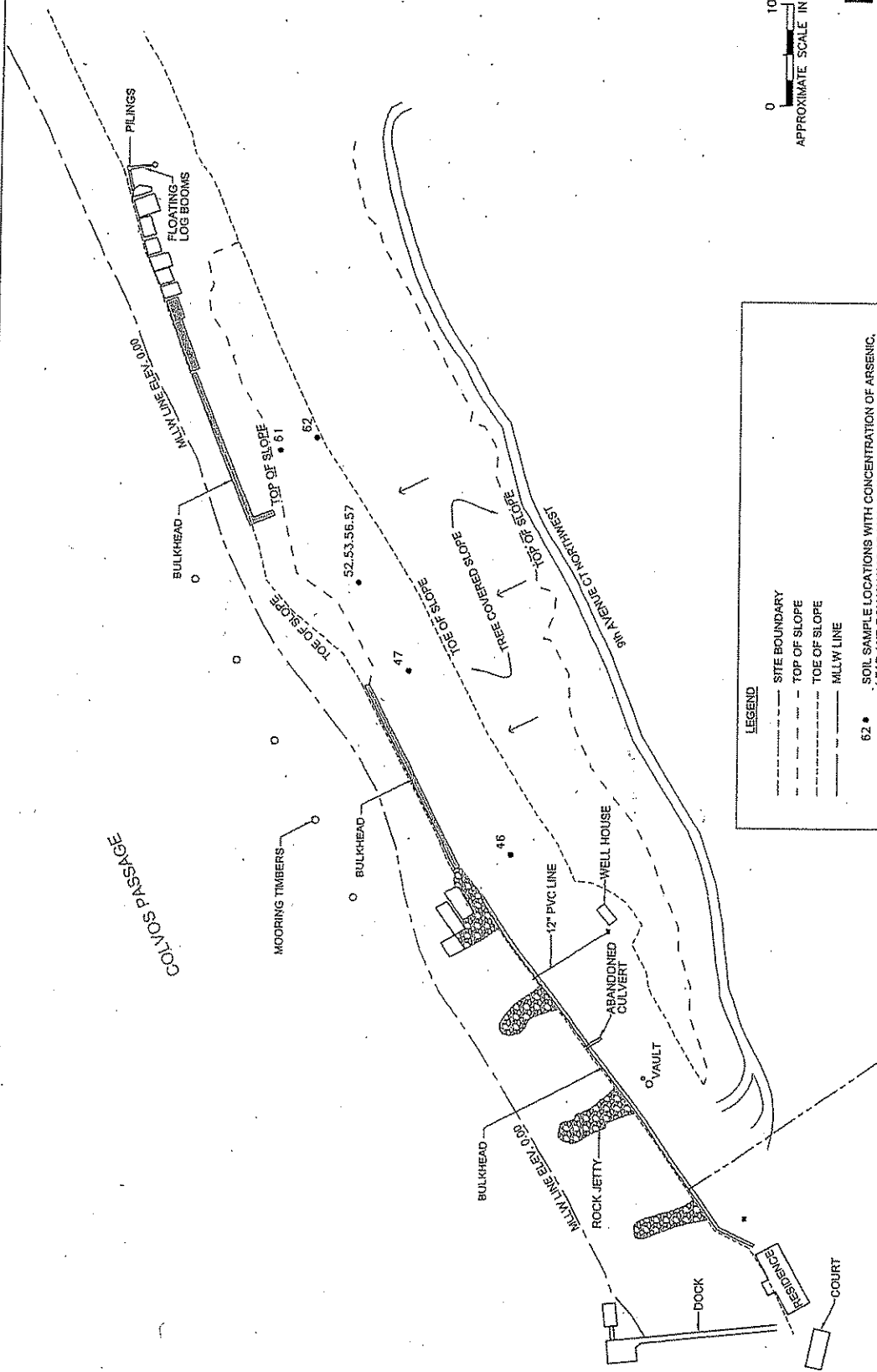
#### 3.2 MAINTENANCE

Maintenance for the Site will depend on the results of site inspections. Information gathered during inspection of the earthen cap, drainage swale, and bulkhead will be evaluated to determine whether normal or unusual conditions exist at the Site. If conditions exist at the Site that require maintenance, such as erosion of the earthen cap, breach of the swale or dam, or buckling of the bulkhead, Manson will inform Ecology and perform maintenance, as necessary, to restore the integrity of the earthen cap, drainage swale, and/or bulkhead. An operation and maintenance report detailing maintenance activities conducted at the Site will be submitted to Ecology, if maintenance is required.

#### 3.3 REPORTING

The owner of the Site will report the results of the operation and maintenance to Ecology if the integrity of institutional controls is compromised. The operation and maintenance report will include documentation of maintenance activities and a summary of inspection and maintenance activities and dates.





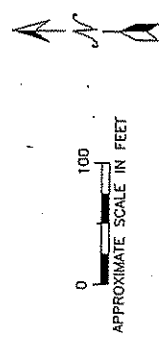
- LEGEND**
- SITE BOUNDARY
  - - - TOP OF SLOPE
  - - - TOE OF SLOPE
  - MLLW LINE

62 • SOIL SAMPLE LOCATIONS WITH CONCENTRATION OF ARSENIC, LEAD AND POLYCYCLIC AROMATIC HYDROCARBON (PAH) ABOVE THE MTCA METHOD A CLEANUP LEVELS (SEE ATTACHED TABLE 1) AND SUMMARY OF CLEANUP ACTION REPORT DATED JANUARY 12, 2004 PROVIDED BY CDM

■ CATCH BASIN

MLLW: MEAN LOWER-WATER VERTICAL DATUM BASED ON

BASE MAP PROVIDED BY CDM 03/04/05



**DRAFT**



**FARALLON CONSULTING**  
320 3rd Avenue NE  
Issaquah, WA 98027

**SITE PLAN**  
**NORWEGIAN SALMON INDUSTRIES SITE**  
**GIG HARBOR, WASHINGTON**

Drawn By: DEW Checked By: TC Date: 8/1/05 Disk Reference: 879-003  
Farallon PN: 879-003

Table 1

**Summary of Analytical Results Soil Samples with Concentrations  
of Arsenic, Lead, and cPAHs that Exceed MTCA Method A Cleanup Levels**

Norwegian Salmon Industrial Site

Gig Harbor, Washington

Farallon PN: 879-003

CDM Sample Identification <sup>1</sup>	CDM Map Identification <sup>2</sup>	Approximate Depth in Feet Below Ground Surface <sup>3</sup>	Excavation Wall	Date Sampled	Soil Analytical Results in milligrams per kilogram <sup>4</sup>		
					Arsenic	Lead	TEQ <sup>5</sup> cPAHs
DP-SWSW	46	1	South	09/04/02	22	16	NA
TP7(SB)-NSW	47	3	North	08/21/02	< 12	110	0.3986
MW3-NSW	52	5	North	08/19/02	< 14	3,400	0
MW3-ESW	53	7	East	08/19/02	< 11	350	0.2469
MW3-WSW	56	5	West	08/19/02	< 12	1,110	0.59
MW3-SSW	57	5	South	08/19/02	< 14	1,200	0.14
TP7-WSW2	62	5	West	08/12/02	< 12	260	0.5172
TP7-ESW2	61	5	East	07/29/02	< 11	67	0.1887
<b>MTCA Method A Cleanup Levels <sup>6</sup></b>					<b>20</b>	<b>250</b>	<b>0.1</b>

**NOTES:**

Results in **BOLD** denote concentrations are at or above MTCA Method A cleanup levels.

< denotes result is less than laboratory practical quantitation limit or analyte not detected at or above the reporting limit.

<sup>1</sup> Samples collected by Camp Dresser and McKee

<sup>2</sup> Sample locations from completed excavations (see Summary of Cleanup Action Norwegian Salmon Industries Site - January 12, 2004)

<sup>3</sup> Approximate depth measured in feet below ground surface

<sup>4</sup> Analyzed by U.S. Environmental Protection Agency (EPA) Method 6020/ 6010B and 8270C SIM

<sup>5</sup> Total cPAH determined by toxic equivalency per Chapter 173-340-708(8) of the Washington Administrative Code (WAC)

<sup>6</sup> Model Toxics Control Act Cleanup Regulation (MTCA) Method A Cleanup Levels, Chapter 173-340-740 of WAC

CDM = Camp Dresser and McKee

cPAHs= carcinogenic polycyclic aromatic hydrocarbons

MTCA = Model Toxics Control Act Cleanup Regulation

NA = not analyzed

TEQ = toxic equivalence